

REMARKS / ARGUMENTS

The present application includes pending claims 1-25, all of which have been rejected. By this Amendment, claims 2-7, 10-15 and 18 have been amended, as set forth above, to further clarify the language used in these claims and to further prosecution of the present application. The Applicant respectfully submits that the claims define patentable subject matter.

Initially, the Applicant notes that a goal of patent examination is to provide a prompt and complete examination of a patent application.

It is essential that patent applicants obtain a prompt yet complete examination of their applications. Under the principles of compact prosecution, each claim should be reviewed for compliance with every statutory requirement for patentability in the *initial review* of the application, even if one or more claims are found to be deficient with respect to some statutory requirement. Thus, Office personnel *should* state *all* reasons and bases for rejecting claims in the *first* Office action. Deficiencies should be explained clearly, particularly when they serve as a basis for a rejection. Whenever practicable, Office personnel should indicate how rejections may be overcome and how problems may be resolved. A failure to follow this approach can lead to unnecessary delays in the prosecution of the application.

See Manual of Patent Examining Procedure (MPEP) § 2106(II). As such, the Applicant assumes, based on the goals of patent examination noted above, that the present Office Action has set forth "all reasons and bases" for rejecting the claims.

Claim 12 was objected to because of an informality. The Applicant has amended claim 12 as set forth above to overcome this informality. Claims 1-25 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,978,144, issued to Choksi (hereinafter, Choksi), in view of U.S. Patent Application Publication No. 2003/0134650, issued to Sundar, et al. (hereinafter, Sundar). The Applicant respectfully traverses these rejections at least for the reasons previously set forth during prosecution and at least based on the following remarks.

REJECTION UNDER 35 U.S.C. § 103

In order for a *prima facie* case of obviousness to be established, the Manual of Patent Examining Procedure ("MPEP") states the following:

First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or combine the teaching. Second, there must be a reasonable expectation of success. Finally, **the prior art reference (or references when combined) must teach or suggest all the claim limitations.** The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure.

See MPEP at § 2142, citing *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991) (emphasis added). Further, MPEP § 2143.01 states that "the mere fact that references can be combined or modified does not render the resultant combination

obvious unless the prior art suggests the desirability of the combination," and that "although a prior art device 'may be capable of being modified to run the way the apparatus is claimed, there must be *a suggestion or motivation in the reference* to do so'" (citing *In re Mills*, 916 F.2d 680, 16 USPQ 2d 1430 (Fed. Cir. 1990)). Moreover, MPEP § 2143.01 also states that the level of ordinary skill in the art cannot be relied upon to provide the suggestion..., citing *Al-Site Corp. v. VSI Int'l Inc.*, 174 F.3d 1308, 50 USPQ 2d 1161 (Fed. Cir. 1999). Additionally, if a *prima facie* case of obviousness is not established, the Applicant is under no obligation to submit evidence of nonobviousness.

The examiner bears the initial burden of factually supporting any *prima facie* conclusion of obviousness. If the examiner does not produce a *prima facie* case, the applicant is under no obligation to submit evidence of nonobviousness.

See MPEP at § 2142.

I. The Proposed Combination of Choksi and Sundar Does Not Render Claims 1-25 Unpatentable

The Applicant turns to the rejection of claims 1-25 as being unpatentable over Choksi in view of Sundar. The Applicant notes that the proposed combination of Choksi and Sundar forms the basis for all of the pending rejections.

A. Independent Claim 1

With regard to the rejection of independent claim 1 under 103(a), the Applicant submits that the combination of Choksi and Sundar does not disclose or suggest at least the limitation of "receiving from at least one of a first access point and a first switch, at least a first messaging protocol message for establishing a communication session," as recited by the Applicant in independent claim 1.

The Office Action states the following:

Choksi discloses a method for providing bandwidth management in a hybrid wired/wireless local area network (*Abstract*), the method comprising:

receiving from at least one of a first access point and a first switch, at least a first messaging protocol message for establishing a communication session (*call admission request is submitted - Column 7, Lines 5-15 and 33-41*);

See the Office Action at page 3. Initially, the Examiner is reminded that the Applicant's claim 1 relates to a method for providing bandwidth management in a hybrid wired/wireless local area network (LAN). However, the Examiner is relying for support on Choksi, which discloses a method and system for managing real-time bandwidth requests in a wireless network that includes receiving a request for a connection for bandwidth of a cell of a wireless network. See Choksi at *Abstract*. In this regard, Choksi relates only to wireless cell networks and does not relate to a hybrid wired/wireless LAN.

With regard to the first claim limitation stated above, the Examiner is relying on the following citations from Choksi:

Referring to FIG. 3, the method begins at state 160 in which the bandwidth request control is idle while there are no requests to be processed. In response to a bandwidth request for a connection, idle state 160 transitions to step. At step 162, the type of the request is determined. The request may be a handoff request, a call admission request, an additional bandwidth request or any other suitable type of request for bandwidth for a wireless connection. Proceeding to step 162, a QoS policy is retrieved for the connection. The QoS policy may be retrieved from a SLA or other suitable database or node of the communications network 10.

FIG. 4 illustrates a method for bandwidth allocation control in accordance with one embodiment of the present invention. In this embodiment, as previously described in connection with FIG. 3, a single bandwidth request control is used to process call handoff, call admission and additional bandwidth requests. The bandwidth request control includes the call bandwidth and call handoff admission controls 72 and 74 and/or the functionality, thresholds and queues of the controls 72 and 74.

See Choksi at col. 7, lines 5-15 and 33-41. Figure 3 of Choksi illustrates a method for queuing a bandwidth request for allocation in a wireless cell network, and Figure 4 of Choksi illustrates a method for bandwidth allocation control within the wireless cell network. The Applicant points out that Choksi, including the above citation of Choksi, does not disclose or suggest receiving by an access point or a switch, a messaging protocol message for establishing a communication session, as recited in Applicant's claim 1. In fact, Choksi does not disclose or suggest any signal processing with regard to an access point or a switch within a hybrid wired/wireless LAN, as recited in Applicant's claim 1. Sundar is also silent

as to receiving from an access point or a switch, a messaging protocol message for establishing a communication session, as recited by the Applicant in independent claim 1. Therefore, the proposed combination of Choksi and Sundar does not disclose or suggest at least the limitation of "receiving from at least one of a first access point and a first switch, at least a first messaging protocol message for establishing a communication session," as recited by the Applicant in independent claim 1.

Furthermore with regard to the rejection of claim 1, the Examiner concedes that Choksi fails to disclose the notification to the first access point of the communication system to commence the connection. See the Office Action at page 4. The Examiner then relies on Sundar and states the following:

In related prior art, Sundar et al. discloses a call connection management system for hybrid wired/wireless (WWAN and WLAN) networks which performs call setup functions such as channel assignment based upon requests from users. During the call connection setup, initiated by, for example, a handoff scenario, the service BSC informs the desired BSC of the desire to handoff, and once the operation is the complete, acknowledgements are returned to the initiating parties (*Figure 12 - Page 6, Paragraphs 0074-0075*).

See *id.* The Applicant points out that even though Sundar discloses that the service BSC informs the desired BSC of the desire to handoff, Sundar fails to disclose or suggest that an access point is notified of allocated bandwidth using a messaging protocol message, as recited by the Applicant in claim 1. The

Applicant is confused as to why the Examiner is relying on Sundar as Sundar clearly does not disclose or suggest any access point notification. Therefore, the proposed combination of Choksi and Sundar does not disclose or suggest at least the limitation of "notifying said first access point of said allocated bandwidth using at least a second messaging protocol message," as recited by the Applicant in independent claim 1.

Accordingly, the proposed combination of Choksi and Sundar does not render independent claim 1 unpatentable, and a *prima facie* case of obviousness has not been established. The Applicant submits that claim 1 is allowable. Independent claims 9 and 17 are similar in many respects to the method disclosed in independent claim 1. Therefore, the Applicant submits that independent claims 9 and 17 are also allowable over the references cited in the Office Action at least for the reasons stated above with regard to claim 1.

B. Rejection of Dependent Claims 2-8, 10-16 and 18-25

Based on at least the foregoing, the Applicant believes the rejection of independent claims 1, 9 and 17 under 35 U.S.C. § 103(a) as being unpatentable over Choksi in view of Sundar has been overcome and requests that the rejection be withdrawn. Additionally, claims 2-8, 10-16 and 18-25 depend from independent claims 2-8, 10-16 and 18-25, respectively, and are, consequently, also respectfully submitted to be allowable.

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The Applicant also reserves the right to argue additional reasons beyond those set forth above to support the allowability of claims 1-25.

CONCLUSION

Based on at least the foregoing, the Applicant believes that all claims 1-25 are in condition for allowance. If the Examiner disagrees, the Applicant respectfully requests a telephone interview, and requests that the Examiner telephone the undersigned Attorney at (312) 775-8176.

The Commissioner is hereby authorized to charge any additional fees or credit any overpayment to the deposit account of McAndrews, Held & Malloy, Ltd., Account No. 13-0017.

A Notice of Allowability is courteously solicited.

Respectfully submitted,



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